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Southern District of New York***

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**HEDGE FUND MANAGER CHARGED IN SECURITIES FRAUD SCHEME  
RESULTING IN INVESTOR LOSSES OF \$88 MILLION**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, and MARK J. MERSHON, Assistant Director-in-Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), announced today that charges were filed against former hedge fund manager JOHN H. WHITTIER, 40, of Hailey, Idaho, for carrying out a securities fraud scheme that resulted in losses of approximately \$88 million. According to the Indictment filed today in Manhattan federal court:

WHITTIER founded, operated, and managed the Wood River Partners, L.P. ("Wood River U.S.") and Wood River Partners Offshore, Ltd. ("Wood River Cayman") hedge funds. In addition, WHITTIER owned and controlled Wood River Capital Management, L.L.C., the investment adviser to the hedge funds.

WHITTIER's scheme to defraud hedge fund investors and the general investing public involved, among other things, falsely representing to investors that he would pursue a broad investment strategy -- that no investment would ever constitute more than approximately 10 percent of the hedge funds' holdings -- and purposefully failing to make required public filings that would have disclosed his concentrated holdings in one stock.

Beginning in the fall of 2004 through September 2005, WHITTIER accumulated beneficial ownership -- through Wood River U.S., Wood River Cayman, and other accounts he controlled -- of approximately 80 percent of the common stock of Endwave Corporation ("Endwave"). WHITTIER then knowingly and purposefully failed to disclose that ownership interest to his hedge fund investors and to

the public in required filings with the United States Securities and Exchange Commission ("SEC"). These filings require disclosure of beneficial ownership of 5 percent or more of a publicly traded stock, and further disclosure if ownership exceeds 10 percent.

WHITTIER also breached his promises to investors by investing approximately 85 percent of Wood River U.S.'s \$127 million portfolio solely in Endwave stock, rather than diversifying the portfolio with a variety of investments. In acquiring such a concentrated position in Endwave stock, WHITTIER far exceeded the maximum 10 percent of the hedge fund's holdings that he had assured would be invested in any one stock.

In mid-September 2005, a company for which WHITTIER had been managing investments ("Company-1"), terminated its relationship with WHITTIER because of concerns raised by problematic trades and WHITTIER's suspicious trading activity in Endwave stock. Company-1 then liquidated its Endwave holdings. A dramatic drop in Endwave's stock price caused the value of the Wood River U.S. hedge fund portfolio to drop and triggered margin calls by certain of the hedge funds' brokers. Similar margin calls were triggered at Wood River Cayman, which had also accumulated significant holdings in Endwave. Because such a large portion of the Wood River U.S. and Wood River Cayman funds' assets were invested in Endwave stock, WHITTIER was unable to meet certain of these margin calls, and various brokers began liquidating the hedge funds' Endwave stock positions. Around the same time, WHITTIER informed investors that he could not pay redemption requests because of liquidity problems. By approximately October 2005, WHITTIER and the Wood River funds were no longer doing business. As a result, investors in the Wood River U.S. and Wood River Cayman hedge funds lost approximately \$88 million.

In another facet of the fraud scheme, WHITTIER acquired a significant ownership interest in a second publicly traded company, called MediaBay, Inc. ("MediaBay"). In July 2005, WHITTIER caused the purchase of approximately 23 percent of MediaBay's outstanding shares.

Having been warned by a securities lawyer of the legal ramifications of owning more than 10 percent of the outstanding common stock of a publicly-traded company, WHITTIER then intentionally failed to file required documents with the SEC disclosing his ownership interest in MediaBay in excess of 10 percent. WHITTIER instead falsely informed his securities lawyers that he had only purchased approximately 9.5 percent of MediaBay's stock. As a result, WHITTIER's securities attorneys filed a form with the SEC disclosing that WHITTIER controlled only approximately 9.5 percent of MediaBay's common stock when, in fact, WHITTIER was

the beneficial owner of approximately 23 percent of MediaBay stock.

The four-count Indictment charges WHITTIER with one count of securities fraud; one count of failing to make a filing with the SEC disclosing beneficial interest of five percent or more in a publicly-traded security; and two counts of failing to make a filing with the SEC disclosing beneficial interest of ten percent or more in a publicly-traded security. If convicted, WHITTIER faces on each of the four counts a maximum sentence of twenty years' imprisonment and a maximum fine of the greater of \$5 million or twice the gross gain or loss resulting from the crime. WHITTIER is expected to be arraigned by United States District Judge JED S. RAKOFF next week.

Mr. GARCIA praised the work of the SEC and the investigative efforts of the FBI. Mr. GARCIA added that the investigation is continuing.

Assistant United States Attorney STEVEN D. FELDMAN is in charge of the prosecution.

The charges and allegations contained in the Indictment are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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